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Letter dated 9 March 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from the Bahamas submitted pursuant to paragraph 6 of resolution 1373 (2001) concerning counter-terrorism (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Neven **Jurica**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 4 March 2009 from the Permanent Mission of the Bahamas to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Commonwealth of the Bahamas to the United Nations presents its compliments to the Chairman of the Counter-Terrorism Committee and has the honour to transmit the fifth report of the Bahamas on implementation of Security Council resolution 1373 (2001) (see enclosure).

Enclosure*

Fifth Report of the Commonwealth of The Bahamas to the Counter-Terrorism Committee Pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Implementation Measures (Resolution 1373 (2001))

1.1 The Committee notes that the House of Assembly of The Bahamas has passed an anti-terrorism bill in its efforts to implement resolution 1373 (2001). In light of the urgency of the counter-terrorism effort, the Committee considers the passage and promulgation of such legislation a priority and would be grateful to receive an update on the status of the bill, including a time frame for enactment and implementation.

Answer:

The Anti-Terrorism Act was enacted on 31 December, 2004. It criminalises terrorism and serves to implement Convention on the Suppression of the Financing of Terrorism, Security Council resolution 1373 (2001) on terrorism and generally to make provision for preventing and combating terrorism.

The Anti-Terrorism (Amendment) Act, 2008, was passed in August 2008 and brought into force in October 2008. The amendment extends the capacity of The Bahamas to render assistance to all countries by removing the requirement for reciprocity in relation to the freezing of terrorist funds; therefore The Bahamas is more able to assist any country which submits a request for freezing of terrorists' funds subject to the provisions of the Act.

Further, the First Schedule to the Act was amended via Ministerial Order to include the total of twelve (12) of the sixteen (16) universal anti-terrorism instruments to which The Bahamas is a party, therefore extending the type and range of offences which are terrorist offences under the Act.

1.2 The Bahamas is now (as of the 4th report) a party to five (5) international counter-terrorism conventions and protocols. Please provide an update on your Government's plans to accede to those remaining instruments and to ensure their implementation in domestic law.

Answer:

Acceding to the universal anti-terrorism instruments remains a priority for the Government of The Bahamas. As of January 2009, The Bahamas is a party to the following twelve (12) of the sixteen (16) universal anti-terrorism instruments, and continues to work towards accession/ratification of the remaining instruments:

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* Attachments are on file with the Secretariat and are available for consultation.

a. **Convention on Offences and Certain Other Acts Committed on Board Aircraft;**

b. **Convention for the Suppression of Unlawful Seizure of Aircraft;**

c. **Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;**

d. **Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;**

e. **Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;**

f. **International Convention against the Taking of Hostages;**

g. **Convention on the Physical Protection of Nuclear Material;**

h. **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;**

i. **Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf;**

j. **Convention on the Marking of Plastic Explosives for the Purpose of Detection;**

k. **International Convention for the Suppression of Terrorist Bombings; and**

l. **International Convention for the Suppression of the Financing of Terrorism.**

1.3 The Committee regards criminalisation of the commission and financing of terrorist acts and effective protection of the financial system from use by terrorists as areas of priority for all States in their implementation of resolution 1373 (2001). From the information available to the Committee, it appears that The Bahamas does not have specific legislation regarding the following:

a. Regulation of alternative funds transfer systems, including licensing and registration requirements for persons who provide funds or asset transfer services and the imposition of administrative, civil or criminal sanctions on persons or entities who use such services for the financing of terrorism;

Answer:

All non-bank transmission service providers and their Money Transmission Agents are subject to the supervision of the Central Bank of The Bahamas. The Bank's regulatory oversight which covers banks and trust companies, was extended to include non-bank money transmission service providers and their agents by the

Banks and Trust Companies Regulation Act, 2000, as amended by the Bank and Trust Companies (Money Transmission Business) Regulations, 2008 (the Regulations). Consequential amendments were also made to the Central Bank of The Bahamas Act, 2000 (CBOBA) by the Central Bank of The Bahamas (Amendment) Act, 2008 to facilitate the Central Bank's supervision of the non-bank money transmission service providers and their agents.

The Central Bank's objective in expanding its supervisory authority to non-bank money transmission service providers is to maintain a prudent regime for the provision of money transmission services by non-bank institutions in The Bahamas, to preserve the integrity and soundness of the financial system and to ensure public safety. In this vein, any person other than a licensed bank or trust company wishing to carry on a money transmission business is required to make an application to the Governor of the Central Bank for the grant of a licence to do so pursuant to section 3(A)(a) of the Banks and Trust Companies Regulation Act (BTCRA) and regulation 4(1) of the Regulations. The licence may be granted subject to such terms and conditions as may be imposed by the Central Bank.

The operation of a money transmission business is open to companies incorporated under the Companies Act, 1992 and group applicants comprising not less than five individuals. Providers and Agents are encouraged to not only read and understand the Central Bank's "General Information and Application Guidelines For Non-Bank Money Transmission Service Providers and Non-Bank Money Transmission Agents" on money transmission business (the Guidelines) but also the principles set out in the Financial Action Task Force's best practises paper on "*Combating the Abuse of Alternative Remittance Systems*". Providers and their agents are subject to the Central Bank's anti-money laundering/combating the financing of terrorism Guidelines issued in 2005 as amended from time to time.

Providers are subject to ongoing supervisory programmes, including periodic on-site examinations and required regulatory reporting set out in the Guidelines by the Central Bank. Providers and agents are required to pay annual license and registration fees of $5,000 and $300, respectively. Pursuant to regulation 5(1), providers must establish and maintain a minimum capital of $50,000 or such other sum as the Governor may require.

Regulation 5(2) mandates that providers maintain adequate insurance coverage to meet the risk inherent in the nature and scale of the money transmission business, having regard to the volume of their business. The adequacy of the insurance coverage is subject to review by the Central Bank.

Regulation 6 prohibits anyone from acting as a money transmission agent unless that person first registers with the Central Bank. Furthermore, a person seeking to be registered as an agent must submit to the Governor a copy of a written agreement between itself and the provider for which it will act as an agent.

Providers and their agents are covered by the definition of "financial institution" in section 3(1)(j)(v) of the Financial Transactions Reporting Act, 2000 (FTRA) and must, pursuant to regulation 8, adhere to all the relevant requirements of the FTRA and the Financial Transactions Reporting Regulations, 2000 (FTRR). The requirements of the FTRA and FTRR include, inter alia, verifying the identity of each and every client (see response to para. 1.5 below). Additionally, regulation 9 provides for the retention of clients' records for a period of five years. Providers and agents are also expected to adhere to the requirements set out in the Central Bank's *Guidance Note on Accounting and Other Records and Internal Control Systems and Reporting Accountants' Reports Thereon* to the extent appropriate for their operations.

Pursuant to regulation 5(4) of the Regulations, all providers are required to produce annual audited financial statements, which are to be prepared in accordance with the International Financial Reporting Standards. The reports must be submitted to the Inspector of Banks and Trust Companies within three (3) months of the end of the provider's financial year. As an added measure of caution, providers are also required to submit quarterly unaudited financial statements within twenty-one (21) days of quarter end.

Any person who carries out a money transmission business without a license commits an offence and is liable upon summary conviction to a fine not exceeding one hundred thousand dollars ($100,000) or to imprisonment for a term not exceeding five (5) years, or both. In cases of continuing offence, the guilty party faces a fine not exceeding two thousand five hundred dollars ($2,500) for each day during which the offence continues pursuant to 3(7) of the BTCRA. Money transmission agents operating without being duly registered are liable on summary conviction to a fine of ten thousand dollars ($10,000) pursuant to regulation 11. Additionally, failure to comply with any of the provisions of the Regulations may subject any money transmission service provider or money transmission agent to an administrative fine in accordance with regulation 12.

Copies of the legislation and guidelines referred to herein are available and may be reviewed by clicking on Bank Supervision, then selecting Regulatory Framework, on the Central Bank of The Bahamas' website at the following address: www.centralbankbahamas.com.

Draft Financial Transactions Reporting (Wire Transfers) Regulations, 2008, are currently with the Ministry of Finance and have been submitted to the Cabinet for tabling in Parliament. The Regulations would include and enhance measures to monitor domestic, cross border and non-routine wire transfers.

b. Criminalisation of money laundering activities, including through the enactment of national laws to facilitate the investigation and prosecution of money-laundering and its predicate offences;

Answer:

As noted at 1.1, the 2008 Amendment to the Anti-Terrorist Act extends the offences considered terrorist offenses under the Act. The offences under the Anti-Terrorist Act are listed in the Schedule to the Proceeds of Crime Act (POCA). Therefore, these offences are predicate offences pursuant to POCA. Additionally, Section 49 of POCA makes provision for the Minister to make a directive to extend the provisions of the Anti-Terrorism Act to foreign jurisdictions. Therefore, the Proceeds of Crime (Designated Countries and Territories) Order, 2001, (POCO) was promulgated. The effect of this action is that any country which is designated by the POCO can submit requests for international cooperation pursuant to the provisions of POCA.

The Business and Technology Crimes Unit of the Central Detective Unit (Royal Bahamas Police Force) is presently charged with the responsibility of investigating all white collar, intellectual property, and cyber crimes in the Commonwealth of The Bahamas. The Unit recognises that money laundering is directly linked to these offences and that international cooperation is vital to tackle this challenge. The Unit therefore works closely with its counter-parts, international law enforcement agencies, commercial banks and their international affiliates. In September 2008, the Unit issued a Statistical Report on its activities thus far for the year. The Report recognised the importance of facilitating domestic legislation, such as the Mutual Legal Assistance (Criminal Matters) Act, 1988, which has allowed for the free movement of personnel and information and has therefore assisted the Business and Technology Crimes Unit in carrying out its mandate.

The Financial Intelligence Unit (FIU) is coordinating a National Action Strategy against money laundering and countering the financing of terrorism. The draft National Strategy, based on Caribbean Financial Action Task Force recommendations, is presently under review.

Additionally, the Financial Intelligence Unit has launched a website, www.bahamas.gov.bs/FIU, which is linked directly to the Government of The Bahamas' main website. The site includes information on the mandate of the FIU and the obligations of financial institutions under the Financial (Transactions Reporting) Regulations, 2001. Financial institutions can access legislative information [*Financial Intelligence Unit Act, 2000, Anti Terrorism Act 2004 (ATA), Financial (Transactions Reporting) Regulations 2001, Financial Intelligence Unit Act 2000, as amended (FIUA), Proceeds of Crime Act, 2000, as amended (POCA), Criminal Justice (International Cooperation) Act, 2000, Evidence (Proceedings in Other Jurisdictions) Act, 2000, Mutual Legal Assistance (Criminal Matters) Act, 1988]* as well as access instructions on when and how to complete a Suspicious Transactions Form (which can also be downloaded from the site). Additionally, visitors to the website can review and download the FIU's Annual Reports and access news and publications relevant to the work of the FIU.

c. Implementation of paragraph 2(d) of resolution 1373 (2001) by making it a criminal offence to use The Bahamas' territory for the purpose of committing a terrorist act against other States and their citizens.

Answer:

Section 3 of the Anti-Terrorism Act (2004) stipulates that "a person who in or outside of The Bahamas carries out an act that constitutes an offence under or defined in any of the [International terrorism] related treaties listed in the First Schedule...is guilty of the offence of terrorism and on conviction on information where death ensues and where that act would have constituted the offence of murder or treason...shall be sentenced to death, or in any other case is liable to imprisonment for life".

Also, "any person who aids, abets, counsels, procures, incites or solicits the commission of an offence or conspires with another or others to commit [a terrorist] offence is liable on conviction on information to be punished as a principal offender" (The Bahamas Anti-terrorism Act 2-3).

1.4 The Committee would be pleased to know how The Bahamas plans to ensure coordination between law enforcement and national security authorities in enforcing the provisions of the anti-terrorism bill, once it has been adopted, in particular with respect to investigation and the prosecution of offenders.

The Royal Bahamas Police Force has established an internal Anti-Terrorism Unit which allows for the sharing of information and intelligence analysis. Additionally, the Police Force has established an Underwater Incendiary expert team and a SWAT team with initial hostage negotiation capability.

The Anti-Terrorism Unit (ATU) was formed in response to the potential threat of both domestic and international terrorism. The ATU consists of an Analytical Section, Technical Section and Special Weapons Anti-Tactical Team. Officers within the Anti-Terrorism Unit are highly trained in procedures related to the collection and inventory of evidence at scenes of crime. The Analytical section collects data from domestic and international (official and covert) sources. The information is first processed into intelligence and then sent to the relevant authorities with recommendations on what actions, if any, are necessary. Explosive Technicians and Underwater Explosive Countermeasures Team form part of the Technical section and are tasked with responding to, applying 'Render Safe Procedures" and collecting evidence in all explosive related incidents. The Special Weapons Anti-Tactical Team is assembled if there is a need to respond to any major terrorism-related incident, including kidnapping, hostage taking, barricaded subjects and hostile gun fire.

The ATU does not function in isolation. All sections of the Royal Bahamas Defence Force are part of the anti-terrorism efforts. Domestic law enforcement agencies are

consulted on issues of terrorism, including the civilian air and sea port directors. Further, the ATU liaises with law enforcement agencies internationally, including authorities in Canada, the United Kingdom, the United States, the Caribbean and South America. Interpol and the International Counter Terrorism Association are affiliates of the ATU.

1.5 The Committee notes that under the Financial Transactions Reporting Act of 2000, financial institutions have an obligation to verify existing account holders. What minimum standards have been set for due diligence measures, including verifying the identity of all persons seeking to open an account?

Answer:

Section 6 of the FTRA requires financial institutions to verify the identity of existing account holders as well as prospective account holders. The legislation covers account holders who are individuals, corporate entities, partnerships and un-incorporated businesses.

Under Section 11 of the FTRA, financial institutions are permitted to verify the identity of account holders and prospective account holders by means of such documentary or other evidence as is reasonably capable of establishing the identity of the account holder, including official documents and structural information in the case of corporate entities.

The specific information required to be obtained by financial institutions in respect of the various classes of account holders is set out in regulations 3, 4 and 5 of the FTRA as follows:

Procedure for Verification:

3. (1) For the purposes of the Act, where a financial institution is required to verify the identity of any individual, the following information is required –

(a) full and correct name of individual;

(b) address;

(c) date and place of birth; and

(d) purpose of the account and nature of the business relationship.

(2) In addition to the requirements mentioned in sub-paragraph (1) the following information may be required –

(a) source of funds;

(b) signature;

(c) telephone and fax number (if any);

(d) occupation and name of employer (if self-employed, the nature of the self-employment);

(e) copy of the relevant pages of passport, driver's license, voter's card, national identity card or such other identification document bearing a photographic likeness of the individual as is reasonably capable of establishing the identity of the individual; or

(f) such documentary of other evidence as is reasonably capable of establishing the identity of the individual.

(3) Paragraph (1) shall apply to the verification of identity of the beneficial owners of all facilities.

Procedure for verification of corporate entities:

4. For the purposes of section 11 (1) of the Act, where a financial institution is required to verify the identity of any corporate entity whether incorporated in The Bahamas or elsewhere, the following information may be required –

(a) certified copy of the certification of incorporation;

(b) certified copy of the Memorandum and Articles of Association of the entity;

(c) location of the registered office or registered agent of the corporate entity;

(d) resolution of the Board of Directors authorising the opening of the account and conferring authority on one person who will operate the account;

(e) confirmation that the corporate entity has not been struck off the register or is not in the process of being wound up;

(f) names and addresses of all officers and directors of the corporate entity;

(g) names and addresses of the beneficial owners of the corporate entity;

(h) description and nature of the business including:

(i) date of commencement of business;

(ii) products or services provided;

(iii) location of principle business;

(i) purpose of the account and the potential parameters of the account including –

(i) size, in the case of investment and custody accounts;

(ii) balance ranges, in the case of deposit accounts;

(iii) the expected transaction volume of the account;

(j) written confirmation that all credits to the account are and will be beneficially owned by the facility holder except in circumstances where the account is being operated by an intermediary for the purpose of holding funds in his professional capacity;

(k) such other official documentary and other information as is reasonably capable of establishing the structural information of the corporate entity.

Verification of identity of partnerships or unincorporated businesses:

5. For the purposes of section 11 (1) where a financial institution is required to verify the identity of partnerships or other unincorporated businesses, the following information may be required –

(a) verification of all partners or beneficial owners in accordance with regulation 3;

(b) copy of partnership agreement (if any) or other agreement establishing an unincorporated business;

(c) description of commencement of business including:

(i) date of commencement of business;

(ii) products or services provided;

(iii) location of principle business;

(d) purpose of the account and the potential parameters of the account including –

(i) size in the case of investment and client accounts;

(ii) balance ranges, in the case of deposit and client accounts;

(iii) the expected transaction volume of the account;

(e) mandate from the partnership or beneficial owner authorising the opening of the account and conferring authority on those who will operate the account;

(f) written confirmation that all credits to the account are and will be beneficially owned by the facility holder except in circumstances where the account is being operated by an intermediary for the purpose of holding funds in his professional capacity;

(g) such other official documentary and other information as is reasonably capable of establishing the identity of the partners and beneficial owners.

1.6 In addition to section 14 of the Companies Act (third report, p. 3), what oversight mechanisms are in place to ensure that charitable and other non-profit organisations do not divert funds to terrorist activities, especially when such funds are dispersed to foreign recipient organisations?

Answer:

Draft amendments to the Financial Intelligence Unit Act and the regulations thereunder, are currently with the Ministry of Finance and are undergoing industry consultations. These include draft Financial Transactions Reporting (Wire Transfers) Regulations, 2008, which are currently with the Ministry of Finance and have been submitted to Cabinet for tabling in Parliament. The Regulations would include measures to cover domestic, cross border and non-routine wire transfers. Additionally, proposed amendments to s. 94 of the Securities Industry Act to remove the provision that states that the guidelines are unenforceable are currently undergoing industry consultations.

In this vein, the Securities Commission of The Bahamas, which plays an integral role in the supervision and regulation of The Bahamas' financial services sector, with responsibility for the administration of the Securities Industry Act, 1999, the Investment Funds Act, 2003 and the Financial and Corporate Services Providers Act, 2000, announced that its goals for 2009 include:

1. **Conducting a comprehensive review of the Commission to identify areas of risk and required improvements;**

2. **Enhancing the legislative framework of the Commission; and**

3. **Enhancing transparency in the operations of the Commission.**

1.7 The Committee takes note of the provision for forfeiture orders under Article 10 of Anti-Terrorism bill and would like to know what legal or administrative remedies are in place so that owners can file claim or counter claim against funds which have been frozen, seized or confiscated.

Answer:

Section 9(3) of the Anti-Terrorism Act, Chapter 107 of the Statute Law of The Bahamas requires:

(i) that the Freezing Order be published within such time and manner as the Court directs;

(ii) that the Attorney-General serve notice of the Order together with a copy of the Order on any person whom, in the opinion of the Court, appears to have an interest in the funds; and

(iii) provides procedures for a person or entity whose funds have been frozen to challenge the Order within such time as the Court determines.

Section 9 of the Anti-Terrorism Act also allows for the Court to give directions with regard to –

(i) the payment of debts incurred in good faith prior to the making of the Order;

(ii) the payment of monies to the person referred to in subsection (1) for the reasonable subsistence of his family;

(iii) the payment of costs of the person who brings a claim against the Order, to defend criminal proceedings against him.

Section 9(8) of the Anti-Terrorism Act provides protection for the rights of bona fide third parties.

Section 10(5) of the Anti-Terrorism Act, Chapter 107 provides that in making a forfeiture Order, the Court may give directions –

(i) for the purposes of determining any disputes as to the ownership of or other interest in the funds or any part of the funds; and

(ii) as to the disposal of the funds.

Section 10(6) of the Anti-Terrorism Act also provides that upon the application to the Court by a person against whom a forfeiture order has been made, the Court may order that an amount deemed by the Court to be the value of the funds to be forfeited be paid by that person to the Court and upon payment of that sum the funds ordered to be forfeited shall be returned to him.
Section 15 of the Proceeds of Crime Act, Chapter 93 of the Statute Law of The Bahamas provides that bona fide third parties may apply to the Court to assert an interest in the realizable property, provided that the parties can prove that they were not involved in the defendant's criminal conduct and that they acquired the interest

for sufficient consideration and in the absence of any knowledge or suspicion that the property represented the proceeds of crime.

1.8 In addition to bilateral treaties and the Commonwealth Scheme referred to in the second report (p. 12), does The Bahamas provide administrative cooperation in the area of extradition through formal arrangements or agreements with international, regional and sub-regional organisations?

Answer:

The Bahamas has deposited its instrument of ratification to the United Nations Conventions on Transnational Organized Crime (Palermo Convention) and by Declaration to the Convention has indicated to the United Nations Secretary-General that The Bahamas will utilise the provisions of the Convention as the legal basis for extradition based on reciprocity.

1.9 The Committee is pleased to note the controls imposed by The Bahamas on the cross-border movement of cash and bearer negotiable instruments (fourth report, p. 9) and would be grateful for information on how The Bahamas has increased its capacity to detect, inspect and where appropriate, seize and confiscate falsely declared or disclosed currency and bearer negotiable instruments transported across its borders.

Answer:

A special National Task Force (Office of the Attorney-General) convened to review the matter and recommendations for the enactment of legislation providing for cross border disclosure and declaration are being finalised for Cabinet's approval (see 1.3 (a)). The new legislation would be aimed at a more rigorous system of cross border disclosure and declaration in accordance with Special Recommendation IX of the Financial Action Task Force's Nine Special Recommendations on Terrorist Financing.

1.10 The Committee takes note of the border controls currently in place and would be grateful if The Bahamas would elaborate on the steps it has taken or is contemplating taking in order to enhance measures aimed at preventing the counterfeiting and forging of travel documents with a view to meeting minimum international security standards.

Answer:

In 2008 The Bahamas launched the new E-Passport and E-visas system. The new E-Passports are standardized based on ICAO Document 9303 (endorsed by the International Organization for Standardization and the International Electrotechnical Commission as ISO/IEC 7501-1). In accordance with the ICAO Recommendations on Machine Readable Travel Documents (MRTDs), the new E-Passports/E-Visa feature enhanced security features aimed at preventing the counterfeiting and forging of

travel documents such as optical variable ink, watermarks and latent images of various technologies, security paper, printing, ink and others.

1.11 Pursuant to paragraph 2 (a) of resolution 1373 (2001), States should have in place an appropriate mechanism to deny terrorist access to weapons. The Committee would appreciate an outline of the steps which The Bahamas has taken or plans to take with regard to:

a) Ratification of the United Nations Convention on Transnational Crime and supplementary Protocol against the illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition;

Answer:

The Commonwealth of The Bahamas ratified the United Nations Convention on Transnational Organized Crime and Related Protocols on 26 September 2008. Draft implementing legislation for trafficking of persons was introduced into the Lower House of Parliament on 25 June 2008. The Trafficking in Persons (Prevention and Suppression) Act, 2008, came into force on 10 December 2008.

The relevant Bahamian authorities are considering the legislative requirements with regard to the remaining Protocols including the illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components. In the interim, therefore, existing legislation such as the Penal Code can be employed should a relevant case come to light.

b) Implementation of the recommendations of the World Customs Organizations concerning the aforementioned Protocol.

Answer:

The Bahamas Customs Department has implemented the following measures in compliance with the recommendations of the World Customs Organization (WCO):

(1) Instructions and guidance were issued and provided to enforcement officers to heighten their vigilance and conduct with regard to risk-based examinations of documents and goods at sea ports and airports, with the view of improving and enhancing existing controls in place;

(2) The Department continued to seek improvement of its control system through constant review and study of the measures crafted, adopted and proven effective by international agencies with the view of preventing trafficking in arms, explosives, and hazardous materials generally;

(3) The Department partners with relevant organisations and certain WCO member states in order to provide training for its officers. Bilateral and multilateral

meetings with border institutions and agencies are encouraged regarding steps to combat human and firearms trafficking;

(4) The Department continues to seek financial and technical assistance to expand its automation system. The Department's communication network has also been reviewed with the aim of strengthening the same. These initiatives will enable the Department to better enforce laws without affecting the flow of legitimate commerce;

(5) Officers are provided with current information, aimed at improving their detection and monitoring capabilities of currency, monetary instruments and other movements of monetary value.

Though faced by human and financial resource challenges, The Bahamas Customs Department continues to encourage greater compliance by enhancing and harmonising the training offered to enforcement officers. Additionally, the Customs Department continues to take steps towards full automation of all aspects of its systems and streamline its operations for effective monitoring.

c) Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons.

Answer:

The Royal Bahamas Police Force (RBPF), led by the Central Detectives Unit through its intelligence-led Policing Programme, gathers information on persons who are suspected of engaging in the illicit trade of small arms and light weapons. Any illegal weapons found are confiscated and the RBPF facilitates the process of bringing those suspects to trial. The Bahamas is not a manufacturer of arms and as such, it is important for law enforcement agencies in The Bahamas to maintain a cordial working relationship with neighbouring law enforcement agencies such as the Alcohol, Tobacco Firearm Agency of the United States who assist in weapons tracking. The serial numbers of confiscated firearms are entered into the Agency's E-Trace Weapons Tracking System to obtain the weapon's history. Interpol's International Weapons and Explosives Tracking System is also utilised. Furthermore, all confiscated weapons are tested to ascertain if the said weapon was used in the commission of a crime. Such weapons are secured by the Royal Bahamas Police Force as evidence to be presented during trial. Weapons which are not common or are unusual are stored and secured by the RBPF.

Implementation of resolution 1624 (2005)

2.1 What measures does The Bahamas have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

The Bahamas has enacted terrorism legislation, the Anti-Terrorism Act (2004), which criminalises terrorism and serves to implement the United Nations Convention respecting the Suppression of the Financing of Terrorism, Security Council resolution 1373 (2001) on terrorism and generally to make provision for preventing and combating terrorism.

Under the Anti-terrorism Act (see 1.3), "any person who aids, abets, counsels, procures, incites or solicits the commission of an offence or conspires with another or others to commit [a terrorist] offence is liable on conviction on information to be punished as a principal offender" (The Bahamas Anti-terrorism Act 2-3).

2.2 What measures does The Bahamas take to deny safe haven to persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit terrorist act or acts.

Answer:

In addition to the legislative provisions of The Bahamas Anti-terrorism Act (see 2.1), the Immigration Act and Regulations of The Bahamas provide for the restriction of entry into The Bahamas of undesirable persons — such as known or suspected terrorists or terrorist groups (i.e. the issuance of visas are denied). Additionally, this instrument calls for undesirable persons to be placed on a national stop list and to be denied entry into The Bahamas. Immigration authorities regularly update the stop list as information on the Consolidated List — issued by the Security Council in accordance with resolutions 1267 (1999), 1333 (2000) and 1390 (2002) — is updated.

It is also possible to issue a residence ban against person(s) suspected of belonging or having belonged to a terrorist organisation or if the behaviour of a person is a threat to public order and safety.

Additionally, The Bahamas Immigration authorities receive regular briefings from the United States security agencies and are able to obtain information from the US Immigration databases as a result of the US Pre-clearance facilities that exist in The Bahamas.

In the event that a person has entered The Bahamas and is deemed to be undesirable, he/she can be subject to deportation. In addition to the existing bilateral extradition treaties and the Commonwealth Scheme, The Bahamas has deposited its instrument of ratification to the United Nations Convention against Transnational Organized Crime (Palermo Convention), which serve as the legal basis for extradition based on reciprocity.

2.3 How does The Bahamas cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering its territory, including combating fraudulent travel

documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Answer:

The Bahamas cooperates closely with the United States Government in strengthening its international borders and enhancing terrorist screening as a result of the US Pre-Clearance facilities. Additionally, The Bahamas is a member of Interpol, the Customs Cooperation Council, the Association of Caribbean Commissioners of Police and the Caribbean Information Sharing Network, which all address terrorism and international security matters.

With regard to combating fraudulent travel documents, a number of bilateral agreements exist between the US and The Bahamas which could facilitate exchanges relative to this issue. Also as noted at 1.10, in 2008 The Bahamas implemented MRTDs (E-passports/E-visas).

Concerning passenger security procedures, in 2006 The Bahamas Government installed six (6) CTX 5500 DS Explosive Detection Systems — which help locate and identify explosive devices that might be concealed in checked baggage — at its main airport, the Lynden Pindling International Airport (LPIA). This means that the same explosive detection systems being used elsewhere in North America are being used in Nassau. The Government also installed two (2) VDS108 screening machines and four (4) Heiman 100-100 V at various security checkpoints at LPIA. These systems are utilised in conjunction with portable Explosive Trace Detection equipment and served to enhance the security of passengers.

In accordance with the ISPS Code the Port Department has been identified as the Designated Authority for port facilities within The Bahamas' jurisdiction and The Bahamas Maritime Authority has responsibility for Bahamian registered ships.

A Port Security Advisory Committee has also been appointed to make decisions on security sensitive information and to determine the appropriate marine security levels, as mandated by the Code.

Furthermore, all twenty-three (23) seaport facilities in The Bahamas meet international security standards, as mandated by the International Maritime Organization. These security standards include regular officer patrols, Defence Force harbour patrols, and regular terrorist simulation exercises.

This committee comprises the Permanent Secretary in the Ministry of National Security who acts as Chairman, Commodore of the Defence Force, Commissioner of Police, Port Controller, Controller of Customs, Director of Immigration, a senior representative of the Bahamas Maritime Authority, a senior representative of the

Ministry of Transport and Aviation, a senior officer of the Ministry of Foreign Affairs, Director of Civil Aviation and the International Port Security Programme Coordinator.

The Port Department of The Bahamas continues to invest in security programmes, such as the "Layers of Security" measures. These measures include additional screening measures, better/additional surveillance equipment, increasing patrols, random inspections of the various port facilities to ensure that the required security standards are maintained and making use of new security related technologies and training opportunities.

The authorities of the Port Department work with the police and private industry partners to ensure that information and related intelligence is passed onto the security officers at check points. Additionally the Department liaises with its international partners and participates in programmes such as the Mega-Ports Initiative, a programme introduced by the United States Government which involves the installation of radiation detection equipment at the Freeport, Grand Bahama Container Port. The Department also continues to participate in the Container Port Security Programmes which is a bilateral agreement with the United States to provide reciprocal port security inspections in order to ensure that ISPS security standards and recognized best practices are maintained.

2.4 What international efforts are The Bahamas participating in or considering participating/initiating in order to enhance dialogue and broaden understanding among civilisations in an effort to prevent the indiscriminate targeting of different religions and cultures.

Answer:

The Bahamas is an active member of the United Nations, participates in UNESCO, and maintains a permanent Representative to UNESCO, Ambassador Sidney Poitier. The Bahamas also participates in regional organisations such as the OAS, CARICOM/CARIFTA and the Commonwealth of Nations, which all seek to increase understanding among civilisations and proactively address issues relating to different religions and cultures. The Bahamas is a small country whose demographic is predominantly of African descent and Christian persuasion, with small pockets of resident ethnic communities. The Constitution of The Bahamas, however, provides for fundamental human rights of all persons regardless of their ethnic origin or race. Indeed it was recently stated by one of the framers of the 1972 Constitution, that the language of the country's constitution reflects a moral and open society, one that upholds the rights of all peoples, and one that embraces the principles of tolerance and freedom.

The Government promotes cultural diversity and understanding through social events such as the International Cultural Weekend which is open to all and hosted by the International Cultural Committee of the Ministry of Foreign Affairs. The annual event,

which is in its 14th year, *"is designed ... to bring all of the diverse cultures resident in The Bahamas together for a weekend of cultural exchanges, camaraderie and understanding. It is the International Cultural Committee's contribution to world peace and understanding. The Committee considers itself as an asset to the work of the Ministry of Foreign Affairs and the international relations of The Bahamas."* As mentioned, although the ethnic/religion/national communities in The Bahamas are relatively small, past participants in the event have included representatives from Argentina, Burma, Singapore, Indonesia, India, Pakistan, Cuba, Haiti, Thailand, Dominican Republic, and China, among many others.

Many of the ethnic groups in The Bahamas are represented through associations, such as the Chinese/Bahamian Association and the Haitian/Bahamian association. Efforts at bridging the gap of understanding between cultures are evident by the multitude of efforts by the Government, civil society organizations and religious institutions in The Bahamas. Representatives from the various religious institutions in The Bahamas participate in regular outreach programmes to the Republic of Haiti and conversely, religious representatives from Haiti make regular visit to The Bahamas. Throughout the year religious institutions in The Bahamas host workshops with their counter-parts in the Caribbean. The Ministry Tourism, along with other organizations, hosted the Rugby World Cup 2008, which was a gathering of 15 nations including Mexico, the United States, Canada, Cayman Islands, Trinidad and Tobago, Bermuda, Guyana, Jamaica, St Kitts and Nevis, St. Vincent and the Grenadines.

The Bahamas participates in student exchange and scholarship programmes with many of the countries with which it has diplomatic relations continuing its efforts to form social and cultural bonds. On behalf of the Government of The Bahamas, the Minister of the Ministry of Education, Youth, Sports and Culture recently signed an extension to an existing bilateral agreement with the Republic of Cuba allowing more than forty (40) Cuban teachers to teach in various schools throughout The Bahamas.

2.5 What steps is The Bahamas taking to counter the incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Answer:

As noted at 2.1, Section 3 of the Anti-Terrorism Act specifies that "a person who in or outside of The Bahamas carries out any act that is intended to cause serious risk to health or safety of the public or any segment of the public...is guilty of the offence of terrorism" (2-3). This would include acts motivated by extremism and intolerance.

It is important to note, however, that The Bahamas has had no history of these types of activities. The majority of Bahamians are descendants of African slaves brought to the islands during the early colonial period of Bahamian history. Issues pertaining to

the social, political and economic inequality among segments of the population were a motivating factor for post-independence Bahamians to build a society which could overcome a colonial legacy of racial separation and inequality.

Since independence, The Bahamas has implemented policies with regard to equal access to education, health, and social services and employment. Today, The Bahamas is home to a diverse range of persons from around the world. The example of peaceful racial co-existence which has typified life in The Bahamas since 1967 is evidence of the commitment of the people and of successive Governments of The Bahamas to develop a country where people of all races, religions and ethnic origins live and work in harmony.

2.6 What is The Bahamas doing to ensure that measures taken to implement paragraphs 1,2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law.

Answer:

The Constitution of the Commonwealth of The Bahamas guarantees the fundamental rights of all persons in The Bahamas. The Constitution addresses the: (1) Fundamental rights and freedoms of the individual, (2) Protection to right of life, (3) Protection from inhumane treatment, (3) Protection from slavery and forced labour, (4) Protection from arbitrary arrest or detention, (5) Provisions to secure protection of law, (6) Protection of privacy, home and other property, (7) Protection of freedom of conscience, (8) Protection of freedom of expression, (9) Protection of freedom of assembly and association, (10) Protection of freedom of movement, (11) Protection from discrimination on the grounds of race, etc., (12) Protection from deprivation of property, (13) Enforcement of fundamental rights.

Protection of fundamental rights and freedoms of individuals is enshrined in Chapter III, articles 15-27 of the Constitution. Article 15 reads: "Whereas every person in the Bahamas is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:

(a) Life, liberty, security of the person and the protection of the law;

(b) Freedom of conscience, of expression and of assembly and association; and

(c) Protection for the privacy of his home and other property and from deprivation of property without compensation.

Successive Governments of The Bahamas have pursued policies which support respect for fundamental human rights. Any alleged violation of the rights of an individual has recourse through the Bahamian Judicial System. With regard to

individuals convicted in a Bahamian Court of Law, Article 91 of the Constitution provides for the Advisory Committee on Prerogative of Mercy to consider claims of inhumane treatment resulting from conviction(s).

There is a Police Complaints Unit within the Royal Bahamas Police Force that works in tandem with the Civilian Complaints Committee. This working group addresses complaints against members of the Royal Bahamas Police Force. Persons with complaints against the Police that involve physical violence or bodily harm may seek remedies of civil damages under the provisions of Article 18 of the Constitution of the Commonwealth of The Bahamas.

Further, The Bahamas has signed/ratified/acceded to a significant number International Conventions relating to human rights/humanitarian law. The Bahamas submits human rights reports and Security Council reports to the United Nations (i.e. the Committee on the Elimination of All Forms of Racial Discrimination, the Committee on the Rights of the Child). Additionally, the Government of the Commonwealth of The Bahamas recently submitted its report to the United Nations Human Rights Council in compliance with its obligations under the Universal Periodic Review. These processes help to ensure that implementation steps taken in The Bahamas comply with international law.

Respect for Human Rights is included in the Social Studies curriculum of government operated schools. To counter the potential of abuse of rights by members of the uniform services, specific training in human rights observance and protection have been integrated into Royal Bahamas Police Force, Royal Bahamas Defence Force and Immigration officer training programmes.

And as mentioned above (see 2.4) the Government promotes cultural diversity and understanding through social events such as the International Cultural Weekend. In addition to these efforts the Government of The Bahamas continues to fulfil its pledge to involve civil society in aspects of human rights promotion by, for example, facilitating investigations of allegations of human rights abuses to be undertaken by international human rights entities.

The Government of The Bahamas understands the importance of enhancing efforts to protect fundamental human rights while countering terrorism. In this vein, implementation of the obligations of paragraph 2 of resolution 1624 (2005), primarily border security, should be balanced with efforts to ensure the rights of refugees.

The Bahamas has ratified the Convention relating to the Status of Refugees and the related Protocol of 1967, and has prepared draft legislation meant to bring the domestic laws of The Bahamas into conformity with the requirements of the Convention and related Protocol.

Undocumented and/or illegal migrants found in The Bahamas are interviewed by appropriate personnel from the Department of Immigration. Following protocols developed in consultation with the Office of the United Nations High Commissioner for Refugees, persons found to have a well-founded fear of persecution should they return to their country of origin have been granted refugee status or assisted with relocation to a third country.

Every effort is taken by the Government to improve the efficiency of the detention, interview and repatriation exercises connected to illegal migrants found in The Bahamas. The establishment of an Immigration Detention Centre has, for example, permitted the Government to remove immigration detainees from incarceration in Her Majesty's Prison System while they await repatriation. The Detention Centre is fully staffed and administered by a cadre of officers from the major law enforcement and health agencies, namely the Royal Bahamas Police and Defence Forces, the Department of Immigration, the Ministry of Health and the Ministry of Labour and Social Development.

Each year the Government of The Bahamas facilitates domestic and international assessments of the nature and scope of human rights violations reported in the country. Reports of violations are investigated and where appropriate, corrective action taken. Respect for human rights has been specifically integrated into the training programmes of uniform branches of the public service.